

Note: Draft minutes are subject to corrections, additions and deletions.

November 14, 2016

7:00 PM

PRESENT: Rusty Bridle, Chairman
Jim Waddell, Vice-Chairman
Rick Griffin, Selectman
Phil Bean, Selectman
Regina Barnes, Selectman
Frederick Welch, Town Manager

SALUTE TO THE FLAG

I. Public Comment Period

II. Announcements and Community Calendar (5:36)

Selectman Waddell: be careful of flooding and beautiful moon.

Selectman Bean: the election is over; a heartfelt thanks to those that work for the Town and the volunteers, remarkable experience in democracy. A great example of tremendous practice of extraordinary character is Russ Merrill in his contributions to his family, community, church and as a public servant and wishes his family the best in their loss.

Selectman Griffin: it was an exciting election and went well and smooth; sends his respects to the Merrill family.

III. Consent Agenda (7:33)

1. Hampton Cemetery Deeds: Joanne M. Goodspeed and Nancy Leahy, Cheryl and Patrick Lemai, Richard and Anne Pouliot
2. Proclamation "Wreaths Across America"
3. Petition for Underground Gas Line License Unitil – Parr Street
4. 2016 Equalization Ratio Certificate
5. 2016-02 "Supplemental" Real Estate Property Tax Warrant - 27 Pearl Street
6. Donation in lieu of Flowers for Russ Merrill to Hampton Historical Society \$75.00

Selectman Barnes MOTIONED to MOVE the Consent Agenda SECONDED by Selectman Waddell.

VOTE: 5-0-0

IV. Approval of Minutes (8:02)

1. October 31, 2016

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Selectman Barnes MOTIONED to approve the Minutes of October 31, 2016 as submitted SECONDED by Selectman Griffin.

VOTE: 5-0-0

2. November 7, 2016 Non-public Session

Selectman Barnes MOTIONED to approve the Minutes of November 7, 2016 Non-Public Sessions as submitted SECONDED by Selectman Griffin.

VOTE: 5-0-0

V. Appointments (8:40)

1. Frene`/Schuler, Tim Phoenix, Attorney

a. 815 Ocean Blvd Sewer Easement Setback Relief

Attorney Phoenix: a request and motion was made last week to get the opinion of the two people on either side of Brad & Cindy, letters are attached. The neighbors are fine with the proposal and if something goes wrong there, Brad & Cindy take the risk as no one else's home is nearby. Have attached examples around Town where there are sewer lines that are in an area less than 20' and close to buildings; there are no regulations; asking for your approval.

Ms. Hale: the memo summarizes the standard engineering rule in the construction world is 10'; for a reason, we need to get in there and shore up the sides; dealing with sand; replace line; 30' garage; and the Town would not held be liable if the pipe breaks.

Attorney Gearreald: two places in the deed from the Town, this was formerly leased land; deed restriction that indicate the Town is entitled to use a strip of sufficient width for the installation and maintenance for storm and sewer mains. The Town has reserved from the conveyance any public right of ways on or under any existing sewer lines and the right to improve, maintain and expand as reasonably required the above betterments, easements, right-of-ways consistent with the overall needs of the Town now and in the future. There is not in the deed a specified width, nor in our current sewer installation ordinance from building to pipe. The property rights of the owners are bounded by the Selectmen's ability in your discretion to decide as Sewer Commissioners what is a sufficient width and what is reasonably required. Public Works has given you ideas of the industry standard of 10' and also appraised you of some risks that would be of concern; liability, in that the soils involved are primarily sandy and wet, such as if the pipe needed to be excavated, the technology used would be a trench box to prevent cave-ins. Due to the depth of the pipe at 5' and the garage foundation at 4', could cause a cave-in and damage to the foundation and possible injury to workers. I agree with Public Works that if the Board in its discretion decided to allow this building to be built that there should be a hold harmless indemnification agreement, which the owners would sign, which would bind them and their successors should there be any problem by way of property damage or personal injury.

Attorney Phoenix: did not receive DPW memo; would agree to put the frost wall at 6' so it is below the sewer line. We would be willing to sign a hold harmless as proposed by Mark as long as it is clear on the language that it would have to be something that damage to person or property that is caused by the fact that there is only 6' of room, not for just anything, as anything could happen.

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Mr. Schuler: where the sewer line comes out of our foundation is 4' on the southerly most side that does not come into play where we are digging and that would be something we would take care of if there was a failure where we are digging.

Selectman Waddell: I have to go with our DPW recommendations; living at the Beach and knowing what the soils are like, I have to listen to what they are saying, and if we were to give permission, we would have to have a very strong hold harmless legal document.

Selectman Griffin: I have lived at the Beach for 53 years and I have seen more houses having work done all along Ocean Blvd; along Ocean Blvd, it is not sandy, there may be some little pockets of sand. I live at the lowest point on Ocean Boulevard and it is dirt all around my house; all over Hampton, there are sewer pipes under buildings, houses, far closer than this. This is a specialized instance, this is no big deal and they are willing to sign whatever they need; I think this is not as big a deal.

Selectman Bean: I will support Selectman Griffin's comments, I have reviewed the documents, and I respect our DPW opinion. Your expansion is in the spirit of the deed and property owner rights; your property is assessed at \$824,000; the tax total for the four properties combined is over \$50,000; I think this is doable; I would be less inclined to support the hold harmless document.

Selectman Griffin: there are multiple dwellings on one lot and you cannot tell me they are not closer than 10'; this is going to be done right and we should be thankful that they are doing it.

Selectman Waddell: I respect Mr. Bean and Mr. Griffin's construction experience; I would think that DPW expertise would be a little higher.

Selectman Barnes: I agree with Jim.

Chairman Bridle: the line that is there, this is our line not the property owners, correct.

Director Jacobs: the 6" line that runs parallel to Ocean Boulevard is the Town's responsibility.

Chairman Bridle: what is their responsibility? Director Jacobs: their service line, their 4" connection to that line, however long it may run to the main

Selectman Griffin MOTIONED to APPROVE the Sewer Easement Setback Relief for 815 Ocean Boulevard with Hold Harmless Documentation SECONDED by Selectman Bean.

VOTE: 2-3(Barnes, Waddell, Bridle)-0

2. Chris Jacobs, DPW Director & Jen Hale, Deputy DPW Director (31:10)
 - a. Departmental Update

Director Jacobs: have a new hire engineer; new hire for highway labor; new hire for vehicle Maintenance Foreman; three employees have finished probation period and hired permanently. We are looking for draft findings for Bicentennial Park; Church Street force main plans at 60%. Wastewater Treatment Plant facility study is underway and have progress meeting scheduled for next week; have snow plowing, cracked ceiling and curb herbicide bids out. Within the Highway Department, carpenters are working on shed roofs; leaf collections will continue throughout month and maybe through beginning of December; active tree removal and trimming; still have \$376,000 remaining in this year's Warrant Article, going to use portion for cracked ceiling in spring and remainder for listed roads in CIP. We are expecting new trucks delivered by end of year; we are ready for snow; looking at sewer and drainage

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pipes. Wastewater Treatment Plant processed 64.2 million gallons last month; 284 wet tons of sludge; Transfer Station 26 tons higher than last year; recycling 6 tons lower. Tires have their own container; brush was chipped; replacing damaged recycling containers.

Selectman Barnes: everything is increasing? Director Jacobs: yes by 2% per year.

Selectman Barnes: your job is increasing; everything is getting more and more.

Selectman Waddell: on the trucks, the side-arm costs more to maintain, do they save money in efficiency.

Director Jacobs: cut off point; they did 75-80 containers per hour, where the rear packers were in the 50-60; would have to look at the labor cost to offset, going to update the solid waste study; the Department has been hit hard the last 4-5 years with the maintenance of those trucks.

Ms. Hale: the last three weeks alone it has probably totaled around \$15,000-\$20,000.

Selectman Waddell: Wastewater Treatment capacity. Director Jacobs: our capacity is 4,000,000 gallons per day, right now, we are averaging 2,000,000, but it is July 4th weekend and Labor Day that kick us up over our limit.

Selectman Griffin: the reason we went to the side packers were to cut back on people being injured and being out on disability, worker's comp and it was a lot more money than correcting these machines. I question if people are using these right, if there are this many problems; I do not remember any time when buying trucks only lasting five years; probably more than 10 years; are they not being fixed correctly.

Selectman Bean: great Department; congratulations to your new hires; concerned about risk management; Bicentennial Park - structural integrity of the wall; safety concern. Vehicle maintenance is important; great report.

Chairman Bridle: good report; good to hear you have four new people; are we replacing any trees. Director Jacobs: have not ordered any yet; discussed bidding as a package using a tree maintenance account.

Chairman Bridle: the packers are 5 years old; not a heavy-duty chassis. Director Jacobs: problems are multi-faceted; on two trucks the frames went; joy sticks are \$2,000 apiece and have gone through two; all three had an engine job \$6,000 apiece; 2007 production trucks, acquired in 2011; since 2007 the technology has improved; they go through front tires, all the turning eats up the front tires.

Chairman Bridle: we have pick-ups on both sides of the street, with exception of lettered streets, do we need that? Director Jacobs: hoping to do an analysis; have looked into having arm on either side and were told better to just have the one arm

Chairman Bridle: have looked into having parking on one side of street and cans on only one side, which would give us the ability to clean the streets.

b. Mill Pond Dam

Director Jacobs: had progress meeting; on track to bid project out between May and June.

Selectman Waddell: are you finding what you expected. Director Jacobs: 5'-6' down was typical clay and rock; below that glacial till which is the material that is allowing all the water

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to seep in under the dam to keep the ground around it wet; under that they found ledge; so that is good news; moving forward with the design.

3. Jason Bachand & Brendan McNamara (57:35)

a. Architectural and Site Design Guidelines Grant

Mr. Bachand: the Planning Board suggested I look into the Architectural and Site Design Guidelines and asked that I look into how we can incorporate these into what we do and also what other communities are doing. A grant opportunity came about this summer through the Rockingham Planning Commission (RPC) for a planning assistance grant and we were awarded that grant for the purpose preparing the architectural site design guidelines. The Board would like the guidelines for related to commercial and industrial development, not residential; incorporate as an appendix to the site plan regulations, so would be guidelines not standards; flexibility for applicants. The RPC will prepare a text descriptions and graphical depictions to illustrate the alternative design guidelines and assist in presenting those; they are funding \$2,500 of the project and they require local match, which is fully covered under the Planning Board's budget

Selectman Waddell: I support anything the Planning Board does.

i. Authorize Town Manager to sign

Selectman Waddell MOTIONED to ACCEPT the Grant and Authorize Town Manager to sign the Architectural and Site Design Guidelines Grant SECONDED by Selectman Griffin.

VOTE: 5-0-0

4. Warren Kelly (1:02:31)

a. Condominium Trash Pick up

Mr. Kelly: developer and resident on Ocean Boulevard; here as taxpayer to question the grounds of the current Hampton policy to deny condominium owners the same public services provided to homeowners, business and condominium project with five units or less when they are all required to pay the same tax rate. The project at 377 Ocean Boulevard; invested \$9,000,000, created jobs; residents pay upwards of \$260,000 annually in property tax; 90% of owners are seasonal; 100% have no children in Hampton School system; 100% residential; has 100' of sidewalk frontage on Ocean Boulevard. Ask that the Board allows 377 Ocean Boulevard trash pick-up.

Selectman Bean: hard to dispute your logic.

Town Manager Welch: Mr. Kelly went to the Planning Board and filed for condominium construction and part of the filing a covenant was applied, which the Planning Board accepted that trash pick-up would be the private prerogative and obligation of the property, not the Town. It is recorded in the registry of deeds, it is in the documents, and it is a requirement, until he goes back to the Planning Board and the Board sees fit to remove that requirement and the documents are refiled. We are going through all the condominium associations and have found that all the larger condominiums in Town have their own trash collection, which they pay for; exception being a commercial office of some kind on the first floor, the Planning Board exempted them from the requirements.

Selectman Bean: I defer to the Planning Board representative.

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Selectman Griffin: in the past I have fought for the position to pick up the trash on Ocean Boulevard, this Board has decided that it is five units; I do not see why we would change it; would not be fair to any other; last year this was decided; I sympathize, but do not see how we can change.

Selectman Barnes: I concur with Rick.

Selectman Griffin: condominiums all over, Towns just do not pick up large condominiums.

Mr. Kelly: I do not understand the basis for it; if we are paying same amount of tax, why should we be deprived of same benefits; no safety issue; paid impact fee.

Selectman Waddell: I was not on the Planning Board when this came before it; I would not attempt to speak for the Planning Board. I live in a condominium and philosophically I agree with what you are saying; we pay for ours to be picked up; not a child in building that goes to school, and not getting same services; I voted for the five and regret that, as philosophically I cannot agree with it.

Selectman Griffin: I was on the Planning Board when it was approved; I went with your position then and your group agreed to take the trash away. A few condominiums would like their recycling picked up, but almost none of them expect their trash to be picked up, as it is a Town law to recycle; every time the developers agreed to the concessions so they can build the condominiums, and you did too.

Selectman Bean: speaks to the essence of equity and fairness; documents are filed with the State that you are going to pay for trash; moving forward we cannot make a decision on any one specific condominium as they are recorded deeds and agreements. Going forward Mr. Welch mentioned you can go back to the Planning Board; Mr. Welch, if you would speak to the Warrant Article process if that would be a venue for these people.

Town Manager Welch: it is a venue, you can bring an issue to the Town meeting for a decision, but that would mean we would have to pick up all the condominiums, cannot say only going to pick up certain ones. If you do that, I will be given you a bill for slightly more than \$1,000,000 to get it done; have large dumpsters and roll off boxes, have to buy special equipment; the trucks to pick up dumpster boxes cost between \$350,000-\$400,000 per truck, not including the dumpsters.

Mr. Kelly: I am not asking you to pick up dumpsters.

Town Manager Welch: they are there and the problem is they do not have sidewalks and nowhere to put the carts and in many cases would have to drive onto property to pick up.

Mr. Kelly: then you should say no, I agree.

Town Manager Welch: that is not the point; the point is you want them picked up and I understand the reason.

Mr. Kelly: I do not want them picked up.

Town Manager Welch: that is your argument that condominiums should not be discriminated against, and should be picked up.

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Mr. Kelly: you are not hearing my argument; we have a sidewalk; if you have to put one tire on private property, I agree 100% do not pick the trash up; I am arguing that I am equal to other people on the road.

Selectman Barnes: so we are just supposedly going to pick these condominiums up and no one else's, we cannot do that; our policy already says that we are not going to do it. Just because you have access to the road, we cannot just say we are going to agree to pick your condominiums up and then everyone else would come in and do the same thing.

Selectman Griffin: I have gone to bat to do this repeatedly, but the developers said they were going to pick up the trash; we came up with a policy; do not see how it can be changed.

Town Manager Welch: it is in your condo docs and recorded; mandatory obligation against you; Town has no legal obligation to pick up trash at all, all the law says is we have to provide a place for the trash to go.

Mr. Kelly: I can have the condominium docs changed it is not an issue. Town Manager Welch: only the Planning Board can change it, as it was a requirement put on there.

Mr. Kelly: can I go back to the Planning Board? Town Manager Welch: you always have that right.

Mr. Kelly: if the Planning Board approves it? Town Manager Welch: and if the Selectmen approve it.

Mr. Kelly: then I have to come back to the Selectmen after the Planning Board. Town Manager Welch: yes, as it would change the policy of the Town.

Mr. Kelly: where did the policy come from? Town Manager Welch: it was a decision made 10-15 years ago, as condominiums started to be built in Town; each developer was asked to put this requirement in there.

Selectman Griffin MOTIONED to DENY the request for Condominium Trash Pick-up SECONDED by Selectman Barnes.

VOTE: 3-1(Waddell)-1(Beau)

VI. Town Manager's Report (1:26:33)

1. Today was the first day that Petitioned Articles could be submitted for amendments to the Zoning Ordinance. The filing period expires at 5PM on December 14th.
2. We are accepting petitioned warrant article for everything up to 5PM on January 10, 2017.
3. Letters were sent to our United States Senators regarding a request for appropriated funds for the Corps of Engineers to dredge the harbor as previously directed by the Board of Selectmen.
4. The ban on overnight parking on all streets in Hampton goes into effect tomorrow. No parking on any street from 1AM to 7AM until March 15, 2017.
5. As reported by the Department of Public Works the floodgate at Brown Ave and Highland Ave has been replaced and is now in proper working order.
6. If you have not licensed your dog for 2016 please do so, your fines and penalties continue to increase.

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Selectman Barnes: some of the residents at the Beach said the police used to put notices on the cars to remind people not to leave their cars on the side of the road

Town Manager Welch: yes, they have left the notices; if they have the personnel to do it; hopefully; it is not a ticket; usually do not give a ticket for the first notice

Selectman Waddell: Town parking lot? Town Manager Welch: the Police Department is working on that, we have sent them the revision to the ordinance, as there is no provision in there right now if your car is licensed, but not inspected you can park it there forever. We have sent a series of amendments for the Chief of Police to review.

Chairman Bridle: can we make an amendment that the spaces are left open one night per week to allow cleaning. Town Manager Welch: we intended to move the cars over a 15-day period from one area to the next and ban parking to clean area; cars will need to be moved twice per month

Selectman Griffin: I do not see why they are able to stay there overnight. Town Manager Welch: you have provided a 24-hour parking space for people who live up Town and have no parking.

VII. Old Business (1:33:51)

Selectman Waddell: we have finished our budget process, it has gone to the Budget Committee, and is on line; encourage voters and taxpayers to look at the budget. Voters to become more in tune with speaking to our State Representative about getting a reimbursement that is more equitable for the Town for all the tourists that we take care of

Town Manager Welch: if voters have questions, call and talk to the Department Head and ask

VIII. New Business (1:35:30)

1. SAU 90 Request for Cable Funding \$66,823.79 – Kathleen Murphy, Superintendent

Superintendent Murphy: we have an agreement with the Town to use Franchise Fees to fund Public Television Channel 13, which is used for our School Department. This year asking to fund 20 hour part time position of our media coordinator; work with team on Channel 22; equipment upgrades; trying to improve quality of the programs; system to replace Nexus. The system is in collaboration with the Town's system; current technology; Nexus system is no longer manufactured.

Selectman Waddell: I wish there was more coordination between the Town and School; I would support this.

Selectman Bean: great work.

Chairman Bridle: I noticed that you were trading in the Nexus system, but that is Town property; it would give us a backup.

Superintendent Murphy: that should not be in there, it is yours; all the equipment is, and it is all marked that it is Town property.

Chairman Bridle: we have a purchasing policy that we have to put out at least three bids. Superintendent Murphy: there are three different companies; the information presented is from one of those companies; we operate under that same rule; this is preliminary approval

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Superintendent Waddell: on the trade-in, is it more economical to use as a backup or for a trade-in.

Chairman Bridle: yes, we need to make sure if we do need it, we have it.

Selectman Waddell MOTIONED to APPROVE the SAU 90 Request for Cable Funding \$66,823.79 SECONDED by Selectman Bean.

VOTE: 5-0-0

2. No Parking at Plaice Cove - Access to Beach (1:47:50)

Town Manager Welch: we have had a number of complaints that people who want to have access to the Beach, but people are parking directly in front of the stairway access and making it difficult for people to get onto the Beach. So would like to post no parking signs on either side of the stairway access entranceway so people will not park there.

Selectman Waddell MOTIONED to APPROVE the No Parking at Plaice Cove - Access to Beach SECONDED by Selectman Barnes.

VOTE: 5-0-0

3. No parking 20 feet either side of Turnaround on Leavitt Road (1:48:40)

Town Manager Welch: the Board approved a turnaround on Leavitt Road, but people are parking right where you have to back out and this causes a problem, suggested no parking 20' either side, so there will be no opportunity for someone to have an accident.

Selectman Barnes MOTIONED to APPROVE the No parking 20 feet either side of Turnaround on Leavitt Road SECONDED by Selectman Waddell.

VOTE: 5-0-0

Chairman Bridle: can we move the no parking sign that is blocking the Town Clock. Town Manager Welch: yes.

4. Request of No Objection for One-day Service of Alcohol Outside – The Goat 11/18 (1:49:59)

Town Manager Welch: it was a request, but we have had no objection.

Selectman Bean MOTIONED to APPROVE the Request of No Objection for One-day Service of Alcohol Outside – The Goat 11/18 SECONDED by Selectman Barnes.

VOTE: 5-0-0

5. Scheduling of Photo Shoot for Annual Report Cover (1:50:30)

Chairman Bridle: can we do November 28, 2016 in the morning? Town Manager Welch: I will have them make it the 28th.

IX. Closing Comments

Selectman Waddell: just to be clear the money for the School for the cable comes out of the Franchise Fee budget; no money coming out of budget or taxes; money we already have from the Cable Franchise Fee.

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At the conclusion of the Selectmen's Public Session at about 8:53 PM, a motion was made by Selectmen Bean seconded by Selectmen Barnes to recess the public session and to go into a non-public session under RSA 91-A:3, II (c),(e) [Reputation and Litigation]. A roll call vote was taken with all in favor (5-0).

Also Present

Town Manager Frederick Welch
Assistant Town Manager Jamie Sullivan
Town Attorney Mark Gearreald

On Motion made by Selectman Bean, seconded by Selectman Barnes, the Board voted unanimously under N.H. RSA 91:A:3, III, to seal the minutes of this meeting on grounds that release of same could adversely impact the reputation of a person and could jeopardize the effectiveness of the action to be undertaken.

At 8:59 pm, Selectman Waddell moved to rejoin the public meeting, seconded by Selectman Barnes, which said motion was unanimously passed. Then, Selectman Bean moved to adjourn the public session, seconded by Selectman Waddell, which said motion passed unanimously and the public session adjourned at 8:52 p.m.

Chairman